



**THE ATTORNEY GENERAL
OF TEXAS**

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

AUSTIN 11, TEXAS

March 1, 1954

Hon. Garland Smith, Chairman
Board of Insurance Commissioners
Austin, Texas

Letter Opinion No. MS-118

**Re: Is more than one actual
attorney-in-fact author-
ized under the Lloyds
Plan and if so, is each
exempt from obtaining a
local recording agent's
or solicitor's license.**

Dear Mr. Smith:

Your request for an opinion of this depart-
ment reads:

"Our first question is as to whether or not such Lloyds may have more than one attorney-in-fact under the provisions of Chapter 18, of the Insurance Code. Certain Lloyds have recently filed appointments of underwriters as attorneys-in-fact which appoint, or purport to appoint, numerous attorneys-in-fact, each of whom is vested with full power to act for all the underwriters, and these are executed by all the underwriters, each appointing all other underwriters as attorney-in-fact with full powers. We have previously had filings where two or more such attorneys-in-fact have been named. Our question is, can a Lloyds have more than one full-fledged or actual attorney-in-fact, licensed and active at the same time?

"Our second question is, if your answer to the first question is in the affirmative, does the exemption from the Agents' Licensing Law as to 'The Actual Attorney-in-Fact for any Lloyds' (Subsection (e), Section 20, of Article 21.14) apply to each of these attorneys-in-fact?

"The third question is, if such full appointment as attorney-in-fact is made but is modified by some side agreement taking back some of the powers given by the filed appointment, would the exemption as to agents' license still apply?"

Article 18.02 of the Insurance Code of Texas in part provides:

"Art. 18.02. 'Attorneys' Defined

"Policies of insurance may be executed by an attorney or by attorneys in fact or other representative, hereby designated 'attorney,' authorized by and acting for such underwriters under power of attorney. The principal office of such attorneys shall be maintained at such place as may be designated by the underwriters in their articles of agreement; . . ."

From an examination of the above quoted portion of Article 18.02 it is apparent that by the language used more than one attorney-in-fact may be appointed by the underwriters with authority to act for the underwriters under power of attorney. However, each attorney-in-fact appointed must be an actual attorney-in-fact vested with all the authority of an actual attorney-in-fact as contemplated under the Lloyds Plan, Chapter Eighteen of the Insurance Code of Texas. Therefore, your first question is answered in the affirmative.

Article 21.14 of the Insurance Code of Texas sets out the licensing requirements of local recording agents and solicitors and provides certain exemptions. Section 20 in part provides as follows:

"Sec. 20. Life, Health and Accident Insurance. Inapplicable to: Other Exceptions.--

". . .

"(b) Any actual attorney in fact and its actual traveling salaried representative as to business transacted through such attorney in fact or salaried representative of any reciprocal exchange or interinsurance exchange admitted to do business in Texas.

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" . . .

"(e) The actual attorney in fact for any Lloyds.

" . . ."

As hereinabove pointed out, Article 18.02 authorizes more than one actual attorney-in-fact under the Lloyds Plan. Therefore Subsection (e), Sec. 20, Article 21.14, above quoted, would exempt from the agents' licensing requirements of Article 21.14, each actual attorney-in-fact vested with all the authority of an attorney-in-fact as contemplated under the Lloyds Plan, Chapter Eighteen of the Insurance Code of Texas. Therefore your second question is answered in the affirmative.

In answer to your third question, if there is more than one attorney-in-fact appointed by the underwriters and if each is not vested with all the authority of an attorney-in-fact as contemplated under the Lloyds Plan, Chapter Eighteen of the Insurance Code of Texas, or if full appointments as attorneys-in-fact are made by the underwriters but are modified by some side agreement, or if by some subterfuge some of the powers given by the filed appointment are revoked, the exemption provisions of Subsection (e), Sec. 20, Article 21.14 of the Insurance Code of Texas obviously would not apply.

Therefore you are advised that Article 18.02 of the Insurance Code of Texas authorizes the appointment by the underwriters of more than one actual attorney-in-fact for a Lloyds, and if each is given full authority as an actual attorney-in-fact, each is exempt from obtaining a local recording agent's or solicitor's license under Subsection (e), Sec. 20, Article 21.14 of the Insurance Code of Texas.

Yours very truly,

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